



SUPERINTENDENT OF INSURANCE  
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**Bulletin 2016-021**  
**August 23, 2016**

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**TO: ALL PHARMACY BENEFITS MANAGERS DOING BUSINESS IN NEW MEXICO**

**RE: ENFORCEMENT OF THE PHARMACY BENEFITS MANAGER REGULATION  
ACT, NMSA 1978, SECTIONS 59A-61-1 – 59A-61-6.**

**THE FOLLOWING BULLETIN** is issued pursuant to NMSA 1978, Sections 59A-61-1 *et seq.* and Sections 13.1.2.1 to 13.1.2.10 *et seq.* NMAC.

**This bulletin supersedes Bulletin No. 2014-014 issued on October 1, 2014.**

**The content of this bulletin may require compliance and action on your part, please read carefully. The compliance deadline is November 1, 2016.**

In 2014, the New Mexico legislature enacted the Pharmacy Benefits Manager Regulation Act codified at NMSA 1978, Sections 59A-61-1 *et seq.* (the Act). The Act requires that “a person shall not operate as a pharmacy benefits manager unless licensed by the” Superintendent of Insurance. See NMSA 1978, Section 59A-61-3(A). In NMSA 1978, Section 59A-61-2(G) the Act defines pharmacy benefits manager (PBM) as:

...a person or a wholly or partially owned or controlled subsidiary of a person that provides claims administration, benefit design and management, pharmacy network management, negotiation and administration of product discounts, rebates and other benefits accruing to the pharmacy benefits manager or other prescription drug or device services to third parties, but “pharmacy benefits manager” does not include licensed health care facilities, pharmacies, licensed health care professionals, health insurers, unions, health maintenance organizations, medicare advantage plans or prescription drug plans when providing formulary services to their own patients, employees, members or beneficiaries.

The purpose of this bulletin is to advise any unlicensed PBM doing business in New Mexico that a complete application must be submitted to OSI’s Producer Licensing Bureau, on or before November 1, 2016. Along with the completed application the required \$1000.00 filing fee must also be submitted. Failure to comply with all provisions the Act may result in a penalty of up to \$10,000.00 per violation and cessation of business operations in New Mexico.

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The Pharmacy Benefits Manager application (Form 250A) may be found online on the OSI website at the following Internet link:

<http://www.osi.state.nm.us/ProducerLicensing/docs/pharmacy-benefit-managers%20application.pdf>

As OSI seeks to improve the pharmacy benefits manager system in New Mexico for all stakeholders, all pharmacy benefits management activity will come under increased scrutiny in the coming weeks. OSI will be enforcing compliance with the Act.

If you have additional questions regarding this Bulletin, please contact Andy Romero, Division Director at 505-827-4649.

**ISSUED** at Santa Fe, New Mexico on August 23, 2016.

  
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**JOHN G. FRANCHINI**  
Superintendent of Insurance